

EXTENSIONS OF REMARKS

INTRODUCTION OF THE IDEA IMPROVEMENT ACT OF 1996

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. CUNNINGHAM. Mr. Speaker, today I introduce the renewal of America's special education law, the Individuals with Disabilities Education Act [IDEA] Improvement Act of 1996.

This measure is the product of 16 months of work, building consensus to improve this law that has transformed the lives of children with disabilities. For 20 years, children with disabilities have been assured a free, appropriate public education. But as one of my Democrat colleagues said in one of our IDEA hearings, we no longer question whether children should be educated, but how well their education is being done. We see and know that education transforms individuals who were once thought to be helpless into productive, working, tax-paying citizens.

This legislation, which I will summarize, is based upon certain foundational principles.

First, we need to improve IDEA because children with disabilities can and should have a fighting chance to achieve the American dream. We need to make the system work better for children and their families, for teachers and schools, and for the taxpaying citizens who work hard to pay the bill. We want quality education for children, not just a process.

Second, where we recognize that resources are tight, we direct more money to schools to provide services to children. We also reduce paperwork and other administrative burdens, freeing more resources to educate young people.

Third, where we find unnecessary and costly conflict and discord, this legislation renews a focus on education and cooperation.

And fourth, where we have identified confusion in the process of educating children with special needs, we have sought to provide certainty and understanding, based upon consensus and common sense. The area of this law that has probably drawn the most attention is the area of discipline. The IDEA Improvement Act of 1996 contains clear procedures for removing dangerous students from the classroom, with instructions to determine whether the behavior is a manifestation of a student's disability. If a child's wrongdoing has nothing to do with his or her disability, schools should have authority to discipline in a manner consistent with the way they discipline other children. Schools need authority to maintain safe classrooms, and children with disabilities need protections against arbitrary discipline.

Let me say a few words about the process which has brought us to this point, and where we go from here. For 16 months, through three staff drafts, numerous hearings and public and private meetings, we have sought to find agreement in the many difficult issues affecting renewal of our Nation's special edu-

cation law. This bill represents much of that consensus, but not all of it, and certainly not the end of it. And while I believe this is an excellent bill, no individual or organization will wholeheartedly support it all. That is the nature of this process. But the process thus far has given me, and should give all Americans, hope for a successful conclusion.

For the past several weeks, my friend from Michigan, Representative DALE KILDEE and I have been negotiating on many issues in this bill. We have come to many agreements which are reflected in this legislation. There are some issues reminding. Between today and the House Subcommittee on Early Childhood, Youth and Families markup, scheduled for Wednesday, April 24, Members and committee and personal staffs from both parties will continue seeking to resolve issues. Some may be completed in time to be included in a chairman's mark. Others will be held for possible bipartisan amendments, in subcommittee or full committee.

In the interest of citizens and Members who wish to review this bill, its text will be available most quickly on the House Opportunities Committee World Wide Web site, which is "<http://www.house.gov/eoo/>", and soon through the Thomas service of the Library of Congress. I welcome comments and cosponsors, encourage citizens to understand that this is a work in progress, and urge Members to support the bill.

Following is a summary of how the IDEA Improvement Act of 1996 addresses key issues of interest:

OVERVIEW OF THE IDEA IMPROVEMENT ACT OF 1996 AS INTRODUCED APRIL 18, 1996

The following are the major improvements to the Individuals with Disabilities Education Act in the IDEA Improvement Act of 1996:

1. **Funding Formula (§611).** The bill makes a ten-year transition from a "head-count formula based on the number of children with disabilities counted in the State, to a population-based formula with a factor for child poverty. The new formula would be based 85% on number of children in the State and 15% on State poverty statistics. Transition years would use a declining fraction (90% in FY 1997 to 0% in FY 2006) under the current formula and an increasing fraction (10% in FY 1997 to 100% in FY 2006) under the new formula.

2. **Least Restrictive Environment and State Funding Formulae (§612(a)(4)).** The bill requires States to use "placement neutral" funding formulae for distributing funds within the State.

3. **Discipline/"Stay-Put" (§615).** Under current law, a school cannot suspend or expel a disabled student for more than 10 days except where the student has brought a gun to school. With guns, the school may remove a student from school for 10 days, and then may place the student in an "interim alternative placement" for up to 45 additional days. During that period, the student's Individual Education Program (IEP) team must agree on a new placement. If the parents and school disagree, the student will remain in their interim alternative placement for the pendency of any due process proceedings.

This bill addresses the classroom safety issue, but maintains protections against arbitrary placement changes.

The student's IEP will include behavior management techniques to help avoid disruptive, dangerous, and inappropriate behavior.

The bill adds the following categories to the "firearms" category in current law, permitting removal from the classroom to an alternative educational placement for up to 45 days:

Bringing weapons to school;
Bringing illegal drugs to school or illegally distributing legal drugs;

Engaging in an assault and battery (striking another person with the intention of bringing about harmful or offensive contact which is not legally consented by the person); or

By proof of substantial evidence, representing a danger to oneself or others.

These terms and, in the case of the first three categories, which school official would have the discretion to remove the student would be defined through State law or policy.

The bill requires a review by the IEP team of whether the child's action was a manifestation of the disability. The team will consider the implementation of behavior management strategies in the child's IEP, the appropriateness of the placement, and other information presented by the parents. Where an action is not disability related, any school discipline policy applied to non-disabled students may be equally applied to the disabled student.

4. **Mediation (§615(d)).** Three-fourths of the states have established mediation systems on their own accord and have been successful in reducing the number of formal disputes. The bill requires states to offer voluntary mediation to parents prior to any administrative or judicial dispute. Attorneys would not be permitted to participate for either side in mediation, and attorney's fees would not be available for mediation proceedings.

5. **Categorization/Eligibility (§602(3)(B)).** The bill permits States to extend use of the "developmental delay" definition for children aged 3 to 5 (current law) up to age 9, but otherwise maintains the current categories.

6. **Discretionary Programs (Part D).** The bill reorganizes and consolidates the existing discretionary programs (currently Parts D-G, and I). Subpart 1 grants broad authority for national projects to the Secretary of Education. Subpart 2 permits State grants for reform and improvement of their special education and early intervention systems, with an emphasis on in-service and preservice professional development for general educators and special educators. Subpart 3 maintains the current Parent Training Center program.

7. **Reduction of State Education Agency Funds Reservation (§611(c)).** Current law only requires that at least 75% of IDEA funds flow through to local schools. The bill would require states to pass at least 90% through to LEAs, with the remainder reserved for administrative and statewide activities, unless the State seeks a waiver permitting retention of an additional 15%.

8. **Restructuring of Parental Notice Requirements (§615(c-d)).** IDEA currently promotes the use of consolidated notices that notify parents of a host of procedural and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

other rights under the act. The prior written notice and the notification of procedural safeguards requirements in current law have been separated for the purpose of clarity. The prior written notice will only address actions proposed or refused by the local education agency (LEA). The new procedural safeguards notice provision details the frequency and content of the notice to be given to parents.

9. Attorney's Fees (Part B). The bill maintains the current law on attorney's fees by permitting them for parents who prevail against the school. Parents are required to have notified the school district of their concerns at some point prior to filing to obtain attorney's fees. In cases where there are multiple issues in dispute, the judge will be permitted to award fees only on the issues upon which the parents prevailed.

10. Policy Letters (§605(c)). Currently, many U.S. Dept. of Education "policy letters" are treated as having regulatory authority without being submitted to public comment or without having underlying regulatory authority. The bill limits the applicability of such letters to the parties to whom they have been addressed.

11. Parent's Right of Refusal for Initial Evaluation and Consent for Evaluation Not Construed as Consent for Services (§614(a)(1)(C)). The bill clarifies that the parents of a child who has been referred for an initial evaluation have the right to refuse that evaluation placing the onus of making an administrative appeal on the school district where it believes that a child needs special education services. This provision would also clarify that parental consent for a child's evaluation shall not be construed as consent for delivery of special education services based on that evaluation.

12. Commingling of Funds (current §613(a)(9)(A)). The bill maintains the requirement that funds must be expended for the benefit of special education students, but removes the prohibition on commingling of funds. This provision will only permit commingling of Federal and state special education funds. This change will not permit consolidation of Federal special education funds with other Federal funds or with other non-special education funds.

13. Personnel Standards and Personnel Development. The bill maintains the current requirement that States establish and enforce personnel standards (§612(a)(15)). In the bill's newly configured discretionary programs, the State Improvement Grant program will dedicate 75% of appropriated funds to personnel development (§674).

14. Narrow Exceptions for Maintenance of Local Education Agency (LEA) Effort (§613(a)(2)(B)). The bill permits school districts to reduce special education expenditures in the following limited circumstances: replacement of higher cost staff with lower cost staff, such as with retirement; departure of particular high-cost students from the LEA; decreases in special education enrollment; and one-time expenditures of funds by the LEA.

15. Payment for Placement of Students in Private Schools without the Consent of or Referral by the Public Agency (§612(a)(9)(C)). This change would prevent taxpayer financed private school education where the public schools have never been given the opportunity to determine if the child can be served in public schools. This section would require parents to give 10-day written notice to receive reimbursement private, special education school tuition without LEA consent.

The bill would establish that local schools must be permitted to conduct an initial evaluation of a student prior to publicly-funded private school placement. Exceptions would

include: (1) where parents are illiterate or cannot write English; (2) where providing notice would result in delay that would likely result in physical or serious emotional harm to the child; (3) where the school prevents the parent from providing notice; and (4) where parents did not receive notice of this requirement.

16. Disclosure of Evaluations and Recommendations (§615(f)). This provision would require schools and parents to disclose to the other party any evaluations and recommendations based on those evaluations 15 days prior to any due process proceeding. This change will ensure that both parties are given the opportunity to review evaluations of a child's special education needs that the other party intends to use in a due process hearing.

17. Modification of Requirements to Achieve Innovative Delivery of Services (§613(g)). This provision will apply to 10 LEAs or groups of LEAs selected by the Secretary of Education who have demonstrated excellence in providing services to students with disabilities and who have obtained the cooperation of parents of students with disabilities in the area. Selected LEAs will be permitted to modify existing Part B requirements for improving services to disabled students and for improving the operation of the local special education system. Analytic instruments will be developed to quantitatively determine the effectiveness of the modification, and determine the ability for replication of successful changes.

18. State Application for Part C (formerly Part H) (current §678). The bill essentially maintains the current Part H program as Part C. The bill will enable Part C funding applicants to reduce application process paperwork by eliminating the requirement that all State policies and assurances pertaining to Part C be filed with every application to the U.S. Department of Education. This language corresponds to the language in Part B.

PHOTOGRAPHIC TRIBUTE TO FORMER ISRAELI PRIME MINISTER YITZHAK RABIN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 18, 1996

Mr. LANTOS. Mr. Speaker, I rise today to call the attention of my colleagues to an excellent exhibition of photographs—Yitzhak Rabin Remembered—which displays in pictures the life and accomplishments of assassinated Israeli Prime Minister Yitzhak Rabin. This superb exhibit is now on display in the rotunda of the Cannon House Office Building. Last January when my wife, Annette, and I were in Israel on a private visit, we saw an outstanding photographic exhibit about Prime Minister Rabin in the Israeli Knesset, and right there, Annette and I determined that we should make every effort to have those photographs brought here to Washington so that the Members of the Congress could have a greater understanding and appreciation of this great man of peace.

Through the efforts of the Speaker of Knesset, Prof. Shevach Weiss, and the Embassy of Israel here in Washington, we were able to arrange for these photographs to be displayed in the Cannon rotunda. Last night, we held a reception to mark the opening of this exhibit and to pay tribute to this most dis-

tinguished Israeli leader, this man of war who became a leader in the effort to bring peace and cooperation.

Those who paid tribute to Prime Minister Rabin last night were: Our distinguished colleague from Georgia, the Speaker of the House, NEWT GINGRICH; Pro. Shevach Weiss, Speaker of Knesset; Dalia Rabin Filosof, the daughter of Prime Minister Rabin; His Excellency Itamar Rabinovich, the Ambassador of Israel to the United States; and Walter Reich, executive director of the U.S. Holocaust Memorial. Those of our colleagues who sponsored this event, in addition to Speaker GINGRICH, were Senators ORRIN HATCH of Utah and JOE LIEBERMAN of Connecticut; Democratic leader of the House, RICHARD GEPHARDT; and our House colleagues Congressman BENJAMIN A. GILMAN of New York, the chairman of our International Relations Committee; Congressman JOHN PORTER of Illinois; and Congressman HOWARD BERMAN of California. A number of our colleagues joined us in paying tribute, including Congressman BILL MARTINI of New Jersey and HOWARD COBLE of North Carolina.

Mr. Speaker, it is entirely appropriate that we pay tribute to Prime Minister Rabin for his contributions to the State of Israel, our only stable democratic ally in the Middle East, and for his contributions to the peace process in that region.

Yitzhak Rabin was born in Jerusalem in 1922. He was only 26 years of age when the State of Israel was proclaimed in 1948, and in many ways his biography is the biography of Israel. He has played pivotal roles throughout his country's history.

In the war of Israeli independence in 1948, Yitzhak Rabin commanded the Harel brigade, which opened the road to besieged Jerusalem. He served in positions of command in the Israel Defense Forces, culminating with his appointment as chief of staff in 1964, when he led IDF forces to victory in the Six-Day War. Following his retirement from military service in 1968, he became Ambassador of Israel to the United States for a period of 5 years.

In 1973 when he returned to Israel, he was elected a member of the Knesset, and a year later in June 1974 he became Prime Minister, serving until 1977. During this period, disengagement agreements were signed with Egypt and Syria, followed by an interim agreement with Egypt. These were the key agreements that prepared the way for Egyptian President Anwar Sadat's historic visit to Jerusalem. During the period of the coalition government, Rabin served as Minister of Defense from 1984–90.

In July 1992 he became Prime Minister for the second time and also Minister of Defense. This period in office was marked by major landmarks in the peace process. On September 13, 1993, he signed the Israel-Palestinian Declaration of Principles on the South Lawn of the White House. On October 26, 1994, he signed the Treaty of Peace between Israel and Jordan. On September 28, 1995, he signed the Israeli-Palestinian Interim Agreement at the White House. In recognition of his major contributions to Middle East peace, he was awarded the Nobel Prize for Peace in December 1994 along with Israeli Foreign Minister, now Prime Minister, Shimon Peres and PLO Chairman Yasser Arafat.

Few of us will ever forget the tragedy of his death on November 4, 1995. He was assassinated by an Israeli citizen shortly after